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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,476	08/15/2003	Hoon Chang	678-485 CON(P9194 CON)	3844
28249	7590	11/03/2004	EXAMINER HO, DUC CHI	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			ART UNIT 2665	
PAPER NUMBER				

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/642,476

Applicant(s)

CHANG ET AL.

Examiner

Duc C Ho

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/568,276.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/15/03; 04/08/04</u> . | 6) <input type="checkbox"/> Other: _____  |

***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 9-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-8, respectively, of U.S. Patent No. 6,665,313. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Regarding claim 9,

*A method for transmitting frames in a mobile communication system which transmits frames for several services, the method comprising the steps of (see 6,665,313 at col. 25, lines 31-33):*

*creating a multiplex frame of a given length including at least one RLP frame determined according to a service priority (see 6,665,313 at col. 25, lines 34-36); and*

*assembling a plurality of the consecutive multiplex frames into an information frame of a predetermined length and transmitting the information frame (see 6,665,313 at col. 25, lines 41-43).*

Regarding claim 10,

*A data transmission device in a mobile communication system comprising (see 6,665,313 at col. 25, lines 43-44):*

*a plurality of RLP processors each for processing unique service data and generating an RI-P frame of a predetermined length (see 6,665,313 at col. 25, lines 46-48);*

*a multiplexing controller for determining a length of the RLP frame generated from the RLP processors, and assembling a multiplex frame (see 6,665,313 at col. 26, lines 1-3); and*

*a physical layer processor for assembling a plurality of consecutive multiplex frames into an information frame of a second length and transmitting the information frame (see 6,665,313 at col. 26, lines 10-14).*

Regarding claim 11,

*A method for receiving frames in a mobile communication system which receives an information frame comprised of a plurality of consecutive multiplex frames, each multiplex frame including at least one RLP frame having a header attached at the head thereof, the method comprising the steps of (see 6,665,313 at col. 26, lines 14-19, and line 22):*

*demultiplexing each multiplex frame included in the received information frame (see 6,665,313 at col. 26, lines 23-24); and*

*separating at least one RLP frame included in the demultiplexed multiplex frame according to an RLP service using a length indicator of the header, and outputting the separated RLP frame to the corresponding RLP service for processing (see 6,665,313 at col. 26, lines 26-30).*

Regarding claim 12,

*A device for receiving frames in a mobile communication system which receives an information frame comprised of a plurality of consecutive multiplex frames, each multiplex frame including at least one RLP game, at the head of which a header is attached, the device comprising (see 6,665,313 at col. 26, lines 31-36):*

*a demultiplexing controller for separating at least one RLP frame included in each multiplex frame in the received information frame according to an RLP service using a length indicator of the header (see 6,665,313 at col. 26, lines 40-43); and*

*a plurality of RLP processors for performing a corresponding service on the separated RLP frame (see 6,665,313 at col. 26, lines 45-46).*

For claims 9-12, Applicant merely broaden the scope of patent number 6,665,313 by eliminating the terms “the RLP frame including a header comprised of a RLP service identifier indicating a service of the RLP frame and a length indicator indicating a length of the RLP frame” from claim 5 of the patent; “having a first length including at least one RLP frame generated from the RLP processors, including a header comprised of a service identifier indicating a service of the RLP frame and a length indicator indicating a length of the RLP frame” from claim 6 of the patent; “which is comprised of a service identifier indicating a service of the RLP frame and a length indicator indicating a length of the RLP frame” from claim 7 of the patent ; “ which is comprised of a service identifier indicating a service of the RLP frame and a length indicator indicating a length of the RLP frame” from claim 8 of the patent.

It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136 USPQ 184 (CCPA). Also note Ex Parte Raine, 168 USPQ 375 (bd. App. 1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wang et al. (US 6,606,311) ; Ahmadvand et al.(US 6,542,490); Sastri et al. (US 6,785,255) are cited to show apparatus and method for exchanging variable-length data according to radio link protocol in mobile communication system, which is considered pertinent to the claimed invention.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Ho whose telephone number is (571) 272-3147. The examiner can normally be reached on Monday through Friday from 7:00 am to 3:30 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2665

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner

A handwritten signature in black ink, appearing to read "Duc Ho", written over the printed name.

Duc Ho

10-14-04